

	Administrative Regulation		Policy #	06-02.01
	Non-Occupational Injuries or Illnesses		Effective Date:	November 20, 2020
			Revision Date:	November 8, 2021
			Owner:	Risk Management

Purpose:

The purpose is to support employees in transitioning from a non-occupational injury or illness to their regular work assignment.

Scope:

This regulation applies to all employees.

Policy:

Employees who are unable to perform their essential duties because of a non-occupational injury or illness and wish to return to work may initiate a request with the City for a modified work assignment. Modified work assignments are designed to keep employees active within the City and connected to their work groups by utilizing their skills for projects and other temporary projects while they are recovering from an injury or illness. Modified work assignments shall not interfere with an employee's state or federal rights related to leave accommodations or other similar entitlements.

The City is under no obligation to remove essential functions of the job during a non-occupational injury or illness and shall only assign modified work assignments when such work is available and a benefit to the City. Determination of when such work is available is within the City's sole discretion.

Employees are also encouraged to engage with Human Resources in the interactive ADA process. Depending upon the nature of the request it is possible that a modified work assignment may run concurrently with the ADA process.

Procedure:

1. Requesting

1.1. Employees experiencing an injury or illness may be assigned a modified work assignment if they:

1.1.1. Submit a completed request for modified duty, and

1.1.2. Have a provisional approval for Family and Medical Leave or Oregon Family Leave if they qualify, and

1.1.3. Have a medical prognosis of returning to regular duty within six months from date of incapacity.

2. Assignments

2.1. Typically, the duration for modified duty is less than 60 days, but an employee may be assigned modified duty for up to no more than six months per event.

2.1.1. Actual assignments of modified duty and the length of the assignments depend upon the work available and whether or not the employee is showing incremental improvement and is not determined to be medically stationary.

2.2. Probationary employees may be assigned to modified duty. The employee's probationary period will be extended commensurate to the amount of time they were absent from the essential functions of their regular job.

3. Determination for Modified Work Assignment. A determination for a modified work assignment is based on but not limited to:

3.1. The type and duration of work available;

3.2. The employee's skills and abilities;

3.3. The benefit and operational need of the department and organizational goals; and

3.4. The employee's restrictions and limitations.

4. Ending a Modified Work Assignment. A modified work assignment will end when:

4.1. The employee submits to the Human Resources Department a full medical release with no restrictions from their provider.

4.2. An employee is unable to return to their regular job within six months of incapacitation. The employee will be required to utilize any protected leave options available, including FMLA, OFLA or disability leave. Unless the employee has accrued leave balances, such protected leave will be unpaid. If an employee does not meet eligibility requirements for protected leave, the City may propose medical separation of employment.

5. Responsibilities

5.1. Employee Responsibilities:

5.1.1. The employee shall submit updated restrictions and duration from their medical provider to the FMLA/Leaves Administrator in HR no less than every four (4) weeks or sooner if applicable.

- 5.1.2. The employee shall immediately notify their supervisor if there is any change to their restrictions.
- 5.1.3. The employee shall immediately notify their supervisor if the modified work assignment is causing agitation of their injury or illness, or if they are unable to perform the duties.
- 5.1.4. The employee shall use approved FMLA/OFLA for doctors' visits or other time off related to covered serious health conditions. The employee shall try to schedule doctor's visits outside of scheduled working hours if possible. If the employee does not qualify for protected leave, they should code their time to appropriate sick or unpaid leave pay codes.
- 5.1.5. Time worked while on modified duty shall be recorded using the MOD pay code.
- 5.1.6. The employee shall follow normal procedure for requesting any time off, including planned doctor's visits, vacation, etc.
- 5.1.7. The employee shall contact HR if they believe they need workplace accommodations.

5.2. Supervisor Responsibilities:

- 5.2.1. Send all medical notes to HR to maintain in the employee's medical file. The supervisor shall not maintain a separate medical file.
- 5.2.2. Supervise the employee per normal guidelines, including but not limited to directing work, ensure employee maintains assigned work hours, evaluate performance, and provide feedback.
- 5.2.3. Identify and mitigate any hazards to avoid further injury to employee, and/or cause the employee to experience an on-the-job injury.

Definitions

- 1. "*FMLA*" means Family Medical Leave referring to a United States labor law requiring covered employers to provide employees with job-protected and unpaid leave for qualified medical and family reasons.
- 2. "*Medically Stationary*" means that your condition or injury is not expected to get better with further treatment or the passage of time.
- 3. "*OFLA*" means the Oregon Family Leave Act, which is a State of Oregon law that protects workers that need to take time off for several reasons.

4. *“Provisional Approval”* is the time period between when an employee submits a request for a protected leave to the date that the Human Resources receives the completed medical certification from the treating medical provider. Per FMLA/OFLA laws, the City can elect to “provisionally approve” leave requests pending completion of paperwork rather than denying the request until all documentation has been submitted and approved.

Resources:

1. [Americans with Disabilities Act Administrative Regulation](#)
2. [Family Medical Leave Administrative Regulation](#)
3. [Alternative Work Schedules Administrative Regulation](#)
4. [Leave of Absence Administrative Regulation](#)

CREATION (Original):

This administrative regulation is in effect as of the date of my signature. I authorize the Human Resource Director to modify the history and resources sections and header, footer, and numbering without my reauthorization. The administrative regulation remains in effect should these revisions occur.			
Approved By:	Nancy Newton, City Manager	Dates:	11/19/2020
Author:	Chaim Hertz, Director of Human Resources		
Responsible Party:	Risk Management		
Replaces:	N/A		

PERIODIC REVIEW:

Reviewer:		Date:	
Reviewer:		Date:	
Reviewer:		Date:	
Reviewer:		Date:	
Reviewer:		Date:	

REVISIONS:

Version #2:	Responsible Party:	Human Resources		
	Revised By:	Chaim Hertz, Director of Human Resources		
	Approved By:	Nancy Newton, City Manager	Date:	11/08/2021
	Reason/Summary of Changes:	Clarifying the option of the ADA accommodation option.		